

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER



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ARIZONA CORPORATION COMMISSION

DATE: May 18, 2000

DOCKET NO.: T-03749A-99-0323

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Alicia Grantham. The recommendation has been filed in the form of an Order on:

LEGENDS COMMUNICATIONS, INC.  
(CC&N/RESELLER)

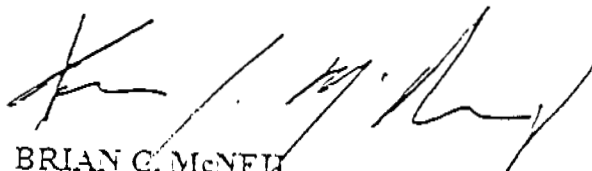
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MAY 30, 2000

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JUNE 6, 2000 AND JUNE 7, 2000

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK  
CHAIRMAN

3 JIM IRVIN  
COMMISSIONER

4 WILLIAM A. MUNDELL  
COMMISSIONER

5  
6 IN THE MATTER OF THE APPLICATION OF  
7 LEGENDS COMMUNICATIONS, INC., FOR A  
8 CERTIFICATE OF CONVENIENCE AND  
9 NECESSITY TO PROVIDE COMPETITIVE  
10 INTRALATA/INTERLATA RESOLD  
11 TELECOMMUNICATIONS SERVICES EXCEPT  
12 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03749A-99-0323

DECISION NO. \_\_\_\_\_

**ORDER**

10 Open Meeting  
June 6 and 7, 2000  
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the  
14 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On June 17, 1999, Legends Communications, Inc., ("Applicant") filed with Docket  
17 Control of the Commission an application for a Certificate of Convenience and Necessity  
18 ("Certificate") to provide competitive intraLATA and interLATA telecommunications services,  
19 except local exchange services, as a reseller within the State of Arizona.

20 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
21 telecommunications providers ("resellers") were public service corporations subject to the  
22 jurisdiction of the Commission.

23 3. Applicant is a Georgia corporation, authorized to do business in Arizona since 1998.

24 4. Applicant is a switchless reseller, which purchases telecommunications services from  
25 AT&T, MCI WorldCom, and QWest.

26 5. On December 13, 1999, the Commissions Utilities Division Staff ("Staff") filed a Staff  
27 Report.

28 6. In the Staff Report, Staff stated that the Applicant provided financial statements as of

1 December 31, 1998, which indicates assets of \$555,861, negative retained earnings of \$247,370 and  
2 total equity of \$108,930. Based on the foregoing, Staff believes that Applicant does not have  
3 adequate financial resources to make necessary plant additions or incur operating losses. Since the  
4 Applicant does not appear to have sufficient financial resources, it filed a letter on November 9, 1999,  
5 stating that it does not currently, and will not in the future, charge its customers for any prepayments,  
6 advances, or deposits. If at some future date, the Applicant wants to charge customers any  
7 prepayments, advances, or deposits, it must file information with the Commission that demonstrates  
8 Applicant's financial viability. Staff believes that if Applicant experiences financial difficulty, there  
9 should be minimal impact to its customers. Customers are able to dial another reseller or facilities-  
10 based provider to switch to another company.

11 7. The Staff Report stated that Applicant has no market power and the reasonableness of  
12 its rates would be evaluated in a market with numerous competitors.

13 8. Staff recommended that:

14 (a) Applicant's application for a Certificate should be approved without a hearing  
15 pursuant to A.A.C. R14-2-1106B;

16 (b) Applicant's intrastate toll service offerings should be classified as competitive  
17 pursuant to A.A.C. R14-2-1108;

18 (c) Applicant's competitive services should be priced at the effective rates set  
19 forth in Applicant's tariffs and the maximum rates for these services should be the  
20 maximum rates proposed by Applicant in its tariffs. The minimum rates for  
applicant's competitive services should be Applicant's long run incremental costs of  
providing those services as set forth in A.A.C. R14-2-1109;

21 (d) In the event that the applicant states only one rate in its tariff for a competitive  
22 service, the rate stated should be the effective (actual) price to be charged for the  
service as well as the service's maximum rate; and

23 (e) Applicant should be required to comply with the Commission's rules and  
24 modify its tariffs to conform with the rules if it is determined there is a conflict  
25 between Applicant's tariffs and the Commission's rules.

26 9. By Procedural Order dated March 22, 2000, the Commission set a deadline of May 17,  
27 2000, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting  
28 intervention as interested parties.

10. On May 17, 2000, the Applicant filed affidavits indicating that it published notice of its filing in all counties where service is to be provided.

11. No exceptions were filed to the Staff Report, nor did any party request that a hearing be set.

### CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. Applicant's provision of resold intrastate interexchange telecommunications services is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate for providing competitive intrastate interexchange telecommunications services as a reseller in Arizona.

6. Staff's recommendations in Findings of Fact No. 8 are reasonable and should be adopted.

### ORDER

IT IS THEREFORE ORDERED that the application of Legends Communications, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive intraLATA and interLATA telecommunications services, except local exchange services, shall be and the same is hereby granted, except that Legends Communications, Inc., shall not be authorized to charge customers any prepayments, advances, or deposits. In the future if Legends Communications, Inc., desires to initiate such charges, including, but not limited to prepaid calling cards, it must file information with the Commission that demonstrates the Company's financial viability or establish an escrow account equal to the amount of any prepayments, advances, or deposits. Staff shall review the information provided and file its recommendation concerning financial viability within thirty days of receipt of the financial information, for Commission approval.

IT IS FURTHER ORDERED that Legends Communications, Inc shall comply with the Staff

recommendations set forth in Findings of Fact No. 8.

IT IS FURTHER ORDERED that Legends Communications, Inc shall file modified tariffs within 30 days from the effective date of this Decision.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2000.

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
AG:bbs

1 SERVICE LIST FOR:

LEGENDS COMMUNICATIONS, INC.

2 DOCKET NO.

T-03749A-99-0323

3  
4 Connie Wightman, Consultant  
5 TECHNOLOGIES MANAGEMENT, INC.  
6 210 N. Park Ave.  
7 Winter Park, FL 32789

8 Robert L. Franklin, Jr.  
9 LEGENDS COMMUNICATION, INC.  
10 2500 Windy Ridge Parkway, Suite 365  
11 Atlanta, GA 30339

12 Lyn Farmer, Chief Counsel  
13 Legal Division  
14 ARIZONA CORPORATION COMMISSION  
15 1200 West Washington Street  
16 Phoenix, AZ 85007

17 Deborah Scott, Director  
18 Utilities Division  
19 ARIZONA CORPORATION COMMISSION  
20 1200 West Washington Street  
21 Phoenix, AZ 85007  
22  
23  
24  
25  
26  
27  
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